

PT 98-72

Tax Type: PROPERTY TAX

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

NEW LIFE TABERNACLE OF SULLIVAN	)	Docket #	96-70-92
Applicant	)	Docket #	96-70-93
v.	)	Parcel Index #	09-09-03-000-107
	)	Parcel Index #	09-09-04-000-410
THE DEPARTMENT OF REVENUE	)	Barbara S. Rowe	
OF THE STATE OF ILLINOIS	)	Administrative Law Judge	

RECOMMENDATION FOR DISPOSITION

Appearances: Duane Young, LaBarre, Young & Dietrich, for New Life Tabernacle of Sullivan.

Synopsis:

The hearing in this matter was held at Willard Ice Building, 101 W. Jefferson Street, Springfield, Illinois, on November 18, 1997, to determine whether or not portions of Moultrie County Parcel Index Nos. 09-09-03-000-107 and 09-09-04-000-410 qualified for exemption during the 1996 assessment year.

Reverend Dave Dolan, Mr. Rob Cole, Mr. John Brosam, Mr. Terry Titus, and Pastor Thomas Pedigo of the New Life Tabernacle of Sullivan (hereinafter referred to as the "Applicant") were present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant was the owner of the parcels during the 1996 assessment year; secondly, whether the applicant is a religious organization; and lastly, whether these parcels were used by the applicant for religious purposes during the 1996 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant owned Parcel Index No. 09-09-03-000-107 during all of the 1996

assessment year. It is also determined that the applicant owned Parcel Index No. 09-09-04-000-410 for the period of April 18, 1996, through December 31, 1996, or 70% of the assessment year. In addition, it is determined that the applicant is a religious organization. Finally, it is determined that the applicant used all of Parcel Index No. 09-09-03-000-107 for religious purposes for the entire 1996 assessment year. It is also determined that the applicant did not use buildings 3, 4, 5, and 6 located on Parcel Index No. 09-09-04-000-410 for religious purposes during the 70% of the 1996 assessment year that the applicant owned the property.

Findings of Fact:

1. The jurisdiction and position of the Department that portions of Moultrie County Parcel Index Nos. 09-09-03-000-107 and 09-09-04-000-410 did not qualify for a property tax exemption for portions of the 1996 assessment year was established by the admission into evidence of Department's Exhibit Nos. 1 through 7. (Tr. p. 13)

2. On October 9, 1996, the Department received two property tax exemption applications from the Moultrie County Board of Review for this applicant. The first exemption request was for Permanent Parcel Index No. 09-09-03-000-107. The applicant had submitted the request, and the board recommended that the whole parcel be exempt for the entire 1996 assessment year. The Department assigned Docket No. 96-70-92 to the application. (Dept. Grp. Ex. Nos. 2 & 3)

3. The second exemption request was for Permanent Parcel Index No. 09-09-04-000-410. The applicant had submitted the request, and the board recommended a partial year exemption from April 18, 1996, until the end of the 1996 assessment year for all buildings except those being leased. The Department assigned Docket No. 96-70-93 to the application. (Dept. Grp. Ex. No. 3)

4. For Docket No. 96-70-92, concerning Parcel Index No. 09-09-03-000-107, on May 22, 1997, the Department granted in part and denied in part the requested exemption application, finding that Building No. 3 and the land on which it stands (hereinafter referred to as "the Firehouse") was denied an exemption. The denial of exemption for the firehouse was because that portion of the property was not in exempt use. The remainder of the 3.365-acre parcel was granted an exemption.

(Dept. Ex. No. 4)

5. On May 22, 1997, the Department granted in part and denied in part the requested exemption application for Parcel Index No. 09-09-04-000-410, assigned Docket No. 96-70-93. The parcel contains 4.555 acres. Specifically, the Department found that buildings 1 and 2 and a proportionate amount of land were approved for exemption. The rest of the improvements, consisting of buildings 3, 4, 5, and 6, and the remainder of the land were denied exemption because that portion of the property was not in exempt use. (Dept. Ex. No. 5)

6. The applicant timely protested the findings of the Department regarding the denials of exemptions on portions of these parcels and requested a hearing in the matters. (Dept. Ex. No. 6)

7. The hearing at the Department's offices in Springfield, Illinois, on November 18, 1997, was held pursuant to that request¹. (Dept. Ex. No. 7)

8. The applicant acquired Parcel Index No. 09-09-03-000-107 by a warranty deed dated September 1, 1981. Applicant then conveyed the parcel to First National Bank of Sullivan Trust No. 481 on September 3, 1981. The property was conveyed to First Mid-Illinois Bank and Trust as trustees of Trust No. 44960310 on April 18, 1996. (Dept. Ex. No. 2 pp. 3 – 7)

9. First Mid-Illinois Bank and Trust as trustees of Trust No. 44-9603-10 on April 18, 1996 also acquired by a trustee's deed the property known as Parcel Index No. 09-09-04-000-410. (Dept. Ex. No. 3 pp. 3-5)

10. The applicant is the beneficiary of First Mid-Illinois Bank and Trust, N.A. Trust No. 44960310. (Dept. Ex. No. 3 pp. 35-36)

11. According to applicant's by-laws and Articles of Incorporation, the purposes for which the applicant is organized are to conduct a local church with a belief in a superior being and regular worship services. The ministry of the applicant must go beyond just the worship service and to the

¹ ALSO PRESENT AT THE HEARING TO SHOW SUPPORT FOR THE APPLICANT'S ENDEAVORS WERE MEMBERS OF APPLICANT'S GROUPS INCLUDING REBECCA EMBREY, MISTY HELTON, DAVID HERSCHERGER, DONNA BUCHANAN, K. AGUONE, ZACH HELTON, KARISSA BROSAM, DUSTIN HIGHLAND, MISTY L. MARTIN, HOLLY HAYCRAFT, ELIZABETH J. DOLAN, SARAH E. COE, TRAVIS L. MUNDY, AARON J. DOLAN, CHRISSY D. FRYMAN, TRISHA M. TITUS, S. JEROD CARRUTHERS, JONATHAN D. DOLAN, JOSH W. HAYCRAFT, LEAH M. HALE, KHRISTINA K. SHAW, LINDSEY P. THOMASON, CRYSTAL L. HUMEL, KARISSA BRONAM, K. AGUON AND ZACH HELTON. (TR. P. 5)

entire community. (Applicant's Ex. Nos. 1-3; Tr. pp. 30, 70-73)

12. Located on Parcel Index No. 09-09-03-000-107 is applicant's teen center, also known as the Firehouse. (Dept. Ex. No. 2 p. 8; Tr. pp. 28, 31; Applicant's Ex. No. 16)

13. The teen pastor of the applicant is responsible for activities conducted in the Firehouse youth center. (Applicant's Ex. No. 4; Dept. Ex. No. 2 p. 8)

14. The Firehouse was dedicated at a ceremony held on Sunday, September 17, 1995. (Dept. Ex. No. 2 pp. 22-23)

15. The Firehouse is a two-story structure that is generally open on Wednesday and Sunday evenings and on the first and third Saturday of each month. In the dining area of the first floor of the Firehouse is located the "Solid Rock Café", which is open following the worship services on Wednesday and Sunday and from 5:00 to 11:00 p.m. on the first and third Saturdays of the month. (Applicant's Ex. Nos. 4, 5; Tr. pp. 50-62)

16. Also located in the first floor of the Firehouse is a game room that houses a Ping-Pong table and numerous games available for fellowship for teens as well as members and children of the applicant. (Dept. Ex. No. 2; Applicant's Ex. Nos. 4, 5; Tr. pp. 50-62)

17. Approximately six to ten volunteers donate their time to the operation of the Solid Rock Café. All food items purchased at the Solid Rock Café are sold pursuant to suggested donations. Within the game room are two video games that require a charge. The applicant donates money to those persons who cannot afford to eat in the Solid Rock Café or play the games. (Dept. Ex. No. 2 p. 43; Applicant's Ex. No. 4; Tr. pp. 50-62)

18. On the second floor of the Firehouse is located the teen Sanctuary, which includes a stage, a sound booth, and a drum room. The second floor also contains the teen pastor's office. (Applicant's Ex. No. 5; Tr. pp. 50-62)

19. Worship services are conducted in the teen Sanctuary on Wednesday and Sunday evenings and the first and third Saturday of each month. The teen minister has been ordained by the applicant as a minister to youth. (Applicant's Ex. No. 4; Tr. pp. 50-62)

20. I take administrative notice of the fact that the Department granted a property tax

exemption to the applicant for Parcel Index No. 09-09-09-000-107 on January 26, 1995, pursuant to Docket No. 94-70-6. (Dept. Ex. No. 2 pp. 40)

21. The applicant refers to Parcel Index No. 09-09-04-000-410, assigned Docket No. 96-70-93, as the Ministry Center. At the time of purchase, the applicant had definite plans for buildings 1 and 2. Even as late as the time of the hearing, the applicant had not developed a plan for buildings 3 through 6. In fact, the back buildings were surplusage to the applicant's uses. (Tr. pp. 19-28, 66-68; Dept. Ex. Nos. 3, 5)

22. As stated previously, the Department granted an exemption for buildings one and two of the Ministry Center. Those buildings house what the applicant originally called the "Love Center" where food and clothing are gathered, stored, and distributed to the needy at no charge whatsoever. The buildings also contain the applicant's church bus and storage areas for the "Love Center". (Tr. pp. 19-28, 66-68; Dept. Ex. Nos. 3, 5)

23. Building No. 3, known as building "D" or buildings "F through A1" on the applicant's exhibits, is a one-story structure that contains twenty-two stalls. The stall on the North end contains farm machinery. The applicant rents five of the stalls to lessees for payments varying from \$45.00 per month to \$500.00 per year. The building is being repaired for boat, camper, and miscellaneous storage. (Dept. Ex. 3 pp. 12-28, 32; Applicant's Ex. Nos. 13, 15; Tr. pp. 14, 41, 49-50; 66-68)

24. Building No. 4, known as building "E" or "B1" on the applicant's exhibits, is a 23' by 134' one-story structure that contains 2 vans also known as junk cars. Also in the building are some old shelving units that the applicant needs to remove. In 1996, the building was not being used by the applicant. (Applicant's Ex. Nos. 13, 15; Dept. Ex. No. 3 p. 29; Tr. pp. 14, 22, 41, 48, 66-68)

25. Building No. 5, referred to as building "F" or "C1" on the applicant's exhibits, is a one-story structure that is 16' by 108'. It was used at one time to store hay. The applicant is in the process of removing the hay. The building was unusable and uninhabitable in 1996. The building is

not rented and is vacant. (Applicant's Ex. Nos. 13, 15; Dept. Ex. No. 3 p. 30; Tr. pp. 14, 41-42, 45, 66-68)

26. Building No. 6, referred to as building “G” or “D1” on the applicant’s exhibits, is a one-story structure that is 112’ by 27’. The building was rented out prior to the purchase of the property. The building is full of trash, pigeons, and rats. The applicant could not use the building in 1996. (Applicant’s Ex. No. 13, 15; Dept. Ex. No. 3 p. 31; Tr. pp. 14, 41-42, 45, 66-68)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 **ILCS** 200/15-40. That portion of the statutes exempts certain property from taxation in part as follows:

Religious purposes, orphanages or school and religious purposes. All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt,

The applicant herein has requested an exemption for the portions of the properties at issue pursuant to the religious exemption. As the Department has granted partial exemptions on both of these properties, as well as an additional property tax exemption for Docket No. 94-70-6, I find that the applicant is acknowledged to be a religious organization by the Department. Therefore, the only question before me is whether the usage of the buildings at issue was religious.

Regarding the Firehouse, I certainly find that the applicant used the Sanctuary area and adjoining rooms as well as the pastor’s office on the second floor for religious purposes. In

conjunction with the teen ministry programs was the use of the Solid Rock Café and game room to provide refreshments and fellowship to the participants of applicant's religious programs. The Illinois courts have found that when the primary use of a church building is for public worship, occasional use for social functions or other purposes will not render it liable to taxation. People ex. Rel. Carson v. Muldoon, 306 Ill. 234 (1922). I therefore recommend that the Firehouse and the land on which it stands be granted a property tax exemption based upon religious usage for the entire 1996 assessment year.

Regarding Docket No. 96-70-93, which refers to Parcel Index No. 09-09-04-000-410 and contains buildings 3, 4, 5, and 6 that were not granted an exemption by the Department, the statute specifies that leased parcels are not entitled to a property tax exemption. The remainder of the buildings that are not leased are either vacant or the applicant is in the process of removing waste that had been left in the areas by others. The applicant asserts that 80% of these buildings were not leased. That fact alone does entitle the property to an exemption. The applicant bears the burden of proving that the use of property clearly falls within the requested statutory exemption and the presumption is that no exemption from property tax is intended. Victory Christian Church v. Department of Revenue, 264 Ill.App.3d 919 (1st Dist. 1994). The applicant has not established that the buildings are used for anything but leasing, storage of non-religious goods, or are vacant.

The Illinois courts have addressed the question of whether vacant property qualifies for a religious property tax exemption and has found that it does not. Particularly, the Illinois Appellate Court found that a church owned building which was not used for any purpose and was boarded up during the taxable years in question did not qualify for a property tax exemption for those years. Antioch Missionary Baptist Church v. Rosewell, 119 Ill.App.3d 981 (1st Dist. 1983). I therefore find that buildings 3, 4, 5, and 6 on Parcel Index No. 09-09-04-000-410 do not qualify for a property tax exemption for that portion of the 1996-assessment year that the applicant owned the parcel.

It is therefore recommended that the portion of Parcel Index No. 09-09-04-000 410 and the corresponding land attributable to buildings 3, 4, 5, and 6 remain on the tax rolls for 70% of the 1996

assessment year and be assessed to the applicant. I also recommend that all of Parcel Index No. 09-09-03-000-107 be granted a property tax exemption for the entire 1996 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
August 25, 1998